

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

BARBARA DULMAN,

Appellant,

v.

DEPARTMENT OF SOCIAL AND HEALTH
SERVICES,

Respondent.

) Case No. RIF-00-0010

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) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND ORDER OF THE BOARD
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I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, LEANA D. LAMB, Member. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on April 26, 2001. GERALD L. MORGEN, Vice Chair, reviewed the audio recording, the file and exhibits and participated in the decision in this matter. WALTER T. HUBBARD, Chair, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Barbara Dulman was present and was represented by Michael Hanbey, Attorney at Law. Janetta Sheehan, Assistant Attorney General, represented Respondent Department of Social and Health Services.

1.3 **Nature of Appeal.** This is an appeal of a reduction in force as a result of a good faith reorganization for efficiency purposes.

1.4 **Citations Discussed.** WAC 356-30-330; O’Gorman v. Central Washington University, PAB No. L93-018 (1995); In Talbott and Hobson v. Dep’t of Social and Health Services, PAB Case Nos. L81-2 & L81-3 (Murphy, Hrgs, Exam.)(1981); George v. Dep’t of Agriculture, PAB No L94-026 (1996); In Amundsen v. Dep’t of Labor and Industries, PAB Case No. L85-1 (1985), aff’d (Thurston Co. Super. Ct. No. 85-2-02185-9 (1987).

II. FINDINGS OF FACT

2.1 Appellant Barbara Dulman is an Information Technology Applications Specialist 3 and permanent employee for Respondent Department of Social and Health Services in the Medical Assistance Information Services Office of the Division of Finance. Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on June 16, 2000.

2.2 Appellant has been employed with DSHS for approximately 27 years.

2.3 Prior to the elimination of Appellant’s position (number D945), she was employed as an Information Technology Applications Specialist 3 in the Applications Services Section of the Information Technology Office. The Information Technology Office maintains the automated computers systems for the agency. Appellant worked on the UNISYS team. Appellant provided agency clients with customer service support and she consulted with other employees responsible for mainframe systems maintenance and systems design. Appellant was primarily responsible for the maintenance, support, monitoring and troubleshooting of the Institutions Inventory System, the Print Charge Back System; the Daily AFRS Interface, and the Daily Institution Inventory System, on UNISYS 2200 systems and on the Wide Area Network.

1 2.4 Phyllis Hurn was the Finance Director and the appointing authority for the Finance Division
2 and its employees prior to her retirement in January 2001. During her tenure, Ms. Hurn identified a
3 change in business needs. The agency purchased a new "off the shelf" accounting system and was
4 shifting from utilizing mainframe systems to using client-servers. As a result, there was mounting
5 pressure for the Information Technology Office to transfer information into the new accounting
6 system and provide the necessary client-server support to its customers. Accordingly, there was
7 also less need for staff to maintain the older, more time-consuming mainframe systems.

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10 2.5 Ms. Hurn concluded that the division needed to make more efficient use of its FTE's (full-
11 time equivalents) in order to stay abreast with the change in technology and provide the division's
12 clients with most efficient level of service possible. Ms. Hurn's goal was to reorganize the division
13 so that a more efficient use of resources could be achieved and more support given on the client-
14 server side. Consequently, Ms. Hurn determined that a reorganization was necessary and she
15 directed Steve Lin, Information Technology Office Chief, to review the office's staffing and
16 responsibilities, review positions and their responsibilities, and determine which could viably be
17 eliminated without causing a negative impact to the office and its clients.

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19 2.6 During his review, Mr. Lin determined that there were a number of duties related to the
20 mainframe system that no longer needed to be performed and as a result could be eliminated. Mr.
21 Lin began to identify positions for elimination that would have the least negative impact on the
22 division as they moved forward to implementing and supporting the new technology. Mr. Lin
23 ultimately recommended five positions for RIF because the duties the positions performed were
24 being phased out and were unnecessary for the new organizational structure the division needed to
25 supports its clients.
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1 2.7 Mr. Lin specifically identified Appellant's position because the inventory system for which
2 she was primarily responsible was being converted to a client-server system and required less time
3 to maintain than the previous mainframe system which was more time consuming and less efficient.
4 The transition from a mainframe system reduced the amount of work that Appellant performed.
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6 2.8 The department's adopted Reduction-in-Force RIF Policy 534 sets forth the reasons for
7 reduction-in-force actions and provides, in part, that RIF actions may be taken as a result of good
8 faith reorganization for efficiency purposes.
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10 2.9 Ms. Hurn concurred with Mr. Lin's recommendations and by letter dated May 18, 2000, she
11 notified Employee Services Director Bob Conner that a total of five information technology
12 positions in the Finance Division would be reduced in force pursuant to WAC 356-30-3301 due to
13 good faith reorganization for efficiency purposes.
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15 2.10 By letter dated May 30, 2000, Ms. Hurn informed Appellant of the reduction in force of her
16 position as an Information Technology Applications Specialist 3 due to good faith reorganization
17 for efficiency purposes effective June 15, 2000. By letter dated June 1, 2000, Ms. Hurn amended
18 the effective date to June 19, 2000. Appellant accepted a position as an Information Technology
19 Applications Specialist 3, position #KT65, in the Medical Assistance Information Services office as
20 her RIF option.
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22 2.11 After Appellant's position was eliminated, the remaining duties of her former position were
23 transferred to other members of the Applications Services Section. There was no evidence that
24 work performed by Appellant prior to her RIF was assigned to independent contractors.
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III. ARGUMENTS OF THE PARTIES

3.1 Respondent argues that management has discretion to review its operations and reorganize as it deems appropriate. Respondent asserts that the necessity for the reduction in force was driven by the change in technology and the agency's requirement to meet the needs of customers. Respondent argues that the Information Technology Office was moving toward new systems and new developments and moving away from the systems Appellant worked on which were no longer considered efficient. Respondent argues that Ms. Hurn appropriately relied on recommendations from Mr. Lin as to which positions to eliminate. Respondent asserts that Appellant was subsequently offered a vacant position that was in her same class, at the same pay range, and in the same county where she worked. Respondent contends that nothing inappropriate occurred in way the RIF was conducted or the reasons for the RIF. Respondent asserts that a preponderance of the evidence established that the RIF occurred in good faith.

3.2 Appellant argues that Respondent failed to prove its case and that its basis for the determination as to which positions to eliminate was ambiguous and nonexistent. Appellant argues that Respondent had a generalized plan to reorganize due to a change in technology, however, Appellant contends that Respondent was forcing out old employees in order to hire new ones. Appellant argues that Respondent has failed to demonstrate that a reasonable basis existed for the RIF or that the RIF subsequently resulted in a more efficient operations of the unit. Appellant argues that Ms. Hurn's rationale for the elimination of Appellant's position was non-existent because it was Mr. Lin who made the decision as to which positions to eliminate. Appellant argues that Ms. Hurn did not know whether other positions could have been eliminated. Appellant asserts that when Ms. Hurn retired, Appellant's work had "not gone away" and other responsibilities had not been transferred. Appellant contends that the appointing authority's decision did not result in

1 efficient business practices and that other employees were required to perform Appellant's duties in
2 addition to their own duties. Appellant also asserts that Respondent hired contract employees.
3 Appellant asserts that Respondent has failed to meet its burden by a preponderance of the evidence
4 that the reduction in force was done in good faith for efficiency purposes.

5 6 7 **IV. CONCLUSIONS OF LAW**

8 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
9 herein.

10 4.2 In an appeal of a reduction-in-force, Respondent has the burden of proof. WAC 358-30-
11 170. Respondent has the burden of proving by a preponderance of the credible evidence that it laid
12 the employee off for the reason stated in the RIF letter. O'Gorman v. Central Washington
13 University, PAB No. L93-018 (1995).

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15 4.3 In Talbott and Hobson v. Dep't of Social and Health Services, PAB Case Nos. L81-2 &
16 L81-3 (Murphy, Hrgs, Exam.)(1981), the hearings examiner found that the reorganization was
17 effected after consideration of many factors affecting the efficiency of the overall unit, and not
18 designed to inconvenience the two appellants whose positions were transferred as a result of the
19 reorganization and consolidation.

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21 4.4 It is not our function to determine whether the reorganization proposal itself was right or
22 wrong, but only to determine if the reorganization was done in good faith. George v. Dep't of
23 Agriculture, PAB No L94-026 (1996).
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1 4.5 In Amundsen v. Dep't of Labor and Industries, PAB Case No. L85-1 (1985), aff'd (Thurston
2 Co. Super. Ct. No. 85-2-02185-9 (1987), the appointing authority determined, upon the
3 recommendation of an assistant, that to accomplish the revised goals of his administration, a
4 position could be better used if it was reallocated to another class. The Board held that it is not the
5 Board's function to probe the mental processes by which the decision was reached, nor to substitute
6 its judgment for that of the agency when there is a showing of reasonable basis for such decision.

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8 4.6 The issue here is whether Respondent complied with WAC 356-30-330(1) when it laid off
9 Appellant because of a good faith organization for efficiency purposes. WAC 356-30-330,
10 subsection (1) indicates:

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12 1) Employees may be separated in accordance with the statutes and the agencies'
13 approved reduction in force procedures after at least fifteen calendar days' notice
14 in writing, without prejudice, because . . . of a good faith reorganization for
efficiency purposes . . .

15 4.7 In this case, Ms. Hurn contemplated reorganization due to the changing needs of its clients
16 and the changing nature of technology. Ms. Hurn appropriately used her authority to review the
17 division's operations and she ultimately reorganized by eliminating positions that supported old
18 systems. Ms. Hurn reasonably relied on Mr. Lin's recommendations as to which positions to
19 eliminate. Respondent has shown a reasonable basis for the reorganization and has met its burden
20 of proof that the elimination of Appellant's position was the result of a good faith reorganization for
21 efficiency purposes and in compliance with the requirements of WAC 356-30-330. Furthermore,
22 Respondent identified and provided Appellant with the appropriate layoff options as required by
23 WAC 356-30-330. Appellant's argument that the division was eliminating older employees to hire
24 younger employees is not supported by the record.
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2 4.8 Respondent has met its burden of proof, and the appeal should be denied.

3 **V. ORDER**

4 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Barbara Dulman is denied.

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6 DATED this _____ day of _____, 2001.

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8 WASHINGTON STATE PERSONNEL APPEALS BOARD

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12 Gerald L. Morgen, Vice Chair

13 _____
14 Leana D. Lamb, Member
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